REMARKS

The Pending Claims

Claims 1, 7, 11, 18, 20-22, 39, 42, 46, 47, 50, and 51 have been amended, and claims 8 and 40 have been canceled, all without prejudice or disclaimer of the subject matter recited therein. Thus, claims 1-7, 9-39, and 41-51 currently are pending in the application.

Summary of the Office Action

The Office Action rejects claims 1-7, 9-11, 13-20, 22-31, 33-39, and 41-51 under 35 U.S.C. § 102(b) as allegedly anticipated by U.S. Patent No. 5,908,663 (Wang et al.) (hereinafter "the Wang '663 patent").

The Office Action also rejects claims 8 and 40 under 35 U.S.C. § 103(a) as allegedly unpatentable over the Wang '663 patent in view of U.S. Patent No. 6,899,923 (Kimbrell, Jr. et al.) (hereinafter "the Kimbrell '923 patent") and/or U.S. Patent No. 5,759,431 (Nguyen) (hereinafter "the Nguyen '431 patent").

The Office Action rejects claim 12 under 35 U.S.C. § 103(a) as allegedly unpatentable over the Wang '663 patent in view of U.S. Patent No. 5,573,553 (McBride et al.) (hereinafter "the McBride '553 patent").

The Office Acton rejects claim 21 under 35 U.S.C. § 103(a) as allegedly unpatentable over the Wang '663 patent in view of U.S. Patent No.5,540,968 (Higgins) (hereinafter "the Higgin '968 patent").

The Office Action also rejects claim 32 under 35 U.S.C. § 103(a) as allegedly unpatentable over the Wang '663 patent alone.

Discussion of the Rejections

As acknowledged in the Office Action, the Wang '663 patent does not appear to teach or suggest the particular combination of a repellent component, a stain resist and/or stain release component, a particulate component, and a hydrophobic cross-linking agent. Notwithstanding this acknowledgement, the Office Action asserts that such subject matter would have been obvious to one of ordinary skill in the art in view of the Kimbrell '923 patent and/or the Nguyen '431 patent.

The Nguyen '431 patent does not appear to teach or suggest the use of a cross-linking agent in combination with a repellent component, a stain resist and/or stain release component, and a particulate component, as recited in the pending

claims. Rather, the Nguyen '431 patent appears to teach the use of fluorochemical potassium salts as a fluorochemical treatment for providing oil and water repellency. The Nguyen '431 patent further teaches that such fluorochemical potassium salts are self-curing or cross-link under ambient temperatures. As would be understood by those of ordinary skill in the art, the self-curing or cross-linking nature of these fluorochemical postasium salts obviates the need for a separate cross-linking agent. In other words, the function of the cross-linking agent is provided by the compound itself, which renders the addition of a separate cross-linking agent unnecessary. Accordingly, contrary to the Office Action's assertions, one of ordinary skill in the art would not have been motivated to modify the Wang '663 patent by using a cross-linking agent. Rather, the ordinary artisan may have been motivated to substitute the particular fluorochemical potassium salts disclosed in the Nguyen '431 patent for the fluorochemicals disclosed in the Wang '663 patent. Having done so, one of ordinary skill in the art would not have then been motivated to add a cross-linking agent, given the Nguyen '431 patent's teaching regarding the self-curing or cross-linking nature of these compounds under ambient conditions.

The Kimbrell '923 patent issued on May 31, 2005, from an application which was filed on January 10, 2003. The present application was filed on November 3, 2003. Accordingly, the Kimbrell '923 patent only qualifies as prior art to the present application under 35 U.S.C. § 102(e). The Kimbrell '923 patent and the subject matter claimed in the present application were, at the time the present invention was made, owned by the same entity or subject to an obligation of assignment to the same entity, namely Milliken & Company. Therefore, the Kimbrell '923 patent cannot be relied upon to reject the invention defined by the pending claims under 35 U.S.C. 103(a) (see, 35 U.S.C. 103(c) and M.P.E.P. §§ 706.02(l)(1) and (2)).

In view of the foregoing, Applicants submit that the invention defined by the pending claims cannot properly be considered *prima facie* obvious over the cited references. The Section 102 and 103 rejections of the pending claims, therefore, should be withdrawn.

Conclusion

In view of the foregoing, the application is considered in proper form for allowance, and the Examiner is respectfully requested to pass this application to

issue. If, in the opinion of the Examiner, a telephone interview would expedite prosecution of the instant application, the Examiner is invited to call the undersigned.

Respectfully submitted,

Robert M. Lanning
Reg. No. 57,121
MILLIKEN & COMPANY, M-495
P.O. Box 1926
Spartanburg, SC 29304
Telephone: (864) 503-1537
Facsimile: (864) 503-1999

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